

CITY COUNCIL AGENDA

SEPTEMBER 19, 2006

SYNOPSIS

LINDA J. LE ZOTTE
FORREST WILLIAMS
CINDY CHAVEZ, VICE MAYOR
CHUCK REED
NORA CAMPOS

DISTRICT 1
DISTRICT 2
DISTRICT 3
DISTRICT 4
DISTRICT 5

RON GONZALES, MAYOR

KEN YEAGER
MADISON P. NGUYEN
DAVID D. CORTESE
JUDY CHIRCO
NANCY PYLE

DISTRICT 6
DISTRICT 7
DISTRICT 8
DISTRICT 9
DISTRICT 10

Welcome to the San José City Council meeting!

This Agenda contains both a Consent Calendar section for routine business items that require Council approval, and general business items arranged to correspond with San José's City Service Areas (CSAs). City Service Areas represent the policy-making level for strategic planning, policy setting, and investment decisions in the critical functions the City provides to the community. They are:

- ***Strategic Support Services*** — The internal functions that enable the CSAs to provide direct services to the community in an effective and efficient manner.
- ***Community & Economic Development*** — Manage the growth and change of the community in order to create and preserve healthy neighborhoods and ensure a diverse range of employment and housing opportunities.
- ***Neighborhood Services*** — Serve, foster, and strengthen community by providing access to lifelong learning and opportunities to enjoy life.
- ***Transportation & Aviation Services*** — A safe and efficient transportation system that contributes to the livability and economic health of the City; and provide for the air transportation needs of the community and the region at levels that is acceptable to the community.
- ***Environment and Utility Services*** — Manage environmental services and utility systems to ensure a sustainable environment for the community.
- ***Public Safety Services*** — Commitment to excellence in public safety by investing in neighborhood partnerships as well as prevention, enforcement, and emergency preparedness services.

Items listed in Section 9 require approval of both the City Council and the San José Redevelopment Agency Board.

You may speak to the City Council about any item that is on the agenda, and you may also speak on items that are not on the agenda during Open Forum. If you wish to speak to the City Council, please refer to the following guidelines:

- **Fill out a Yellow Speaker's Card and submit it to the City Clerk seated at the front table. Do this before the meeting or before the item is heard.** This will ensure that your name is called for the item(s) that you wish to address, and it will help ensure the meeting runs smoothly for all participants.
- When the Council reaches your item on the agenda, Mayor Gonzales will open the public hearing and call your name. Please address the Council from the podium, which is located to the left of the City Clerk's table.
- Each speaker generally has two minutes to speak per item. The amount of time allotted to speakers may vary at the Mayor's discretion, depending on the number of speakers or the length of the agenda.
- To assist you in tracking your speaking time, there is a display on the podium. The green light turns on when you begin speaking; the yellow light turns on when you have 30 seconds left; and the red light turns on when your speaking time is up.

Please be advised that, by law, the City Council is unable to discuss or take action on issues presented during Open Forum. According to State Law (the Brown Act) items must first be noticed on the agenda before any discussion or action.

The San José City Council meets every Tuesday at 1:30 p.m. and every first and third Tuesday at 7 p.m., unless otherwise noted. If you have any questions, please direct them to the City Clerk's staff seated at the tables just below the dais. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

Agendas and Staff Reports for City Council items may be viewed on the Internet at www.sanjoseca.gov/clerk/agenda.asp

To arrange an accommodation under the Americans with Disabilities Act to participate in this public meeting, please call (408) 535-1260 or (408) 294-9337 (TTY) at least two business days before the meeting.

On occasion the City Council may consider agenda items out of order.

- **Call to Order and Roll Call**
9:31 a.m. - Closed Session, City Hall Tower, 18th Floor, City Hall
Absent Council Members: None.

1:37 p.m. - Regular Session, Council Chambers, City Hall
Absent Council Members: None.

7:08 p.m. - Public Hearings, Council Chambers, City Hall
Absent Council Members: Campos. (Excused)
- **Invocation (District 8)**
Local Latino performer Manuel Romero sang.
- **Pledge of Allegiance**
Mayor Gonzales led the Pledge of Allegiance.
- **Orders of the Day**
The Orders of the Day and the Amended Agenda were approved, with Item 6.3 deferred to September 26, 2006.

1. CEREMONIAL ITEMS

- 1.1** Presentation of commendations to Arlene Illa, Cureton Elementary school teacher, and the San José Police Department Metro Unit for their commitment to the “Avon Walk for Breast Cancer” and breast cancer awareness. (Campos)
(Rules Committee referral 9/6/06)
Heard in the evening.
Mayor Gonzales and Vice Mayor Chavez, on behalf of Council Member Campos, recognized and commended Arlene Illa and the San José Police Department Metro Unit.

1. CEREMONIAL ITEMS

- 1.2 Presentation of a commendation to the Supreme Master Ching Hai volunteer group for their tireless effort to dedicate their service and time to beautifying San José and their volunteer activities around the world. (Cortese)
(Rules Committee referral 9/6/06)
Heard in the evening.
Mayor Gonzales and Council Member Cortese recognized and commended the Supreme Master Ching Hai Volunteer Group for their excellent community service.
- 1.3 Presentation of a commendation to Jamie Matthews and Marty Pardun for their work assisting low income and elderly homeowners and for the implementation of a non-enforcement option for dealing with Code Enforcement's implementation of the Community Preservation Ordinance. (Cortese)
(Rules Committee referral 9/6/06)
Heard in the evening.
Mayor Gonzales and Council Member Cortese recognized and commended Jamie Matthew and Marty Pardun for their tireless work assisting low income and elderly homeowners.
- 1.4 Presentation of a commendation to Bookzilla for serving District 1 by inspiring children to read and also helping children to develop a lifelong passion for reading. (LeZotte)
(Rules Committee referral 9/13/06)
Heard in the evening.
Mayor Gonzales and Council Member LeZotte recognized and commended Bookzilla for serving District 1 by inspiring children to read and to develop a lifelong passion for reading.
- 1.5 Presentation of a proclamation recognizing September 15 through October 15, 2006 as "National Hispanic Heritage Month". (Campos)
(Rules Committee referral 9/13/06)
Heard in the evening.
Mayor Gonzales and Vice Mayor Chavez recognized September 15 – October 15, 2006 as "National Hispanic Heritage Month". Council Member Campos was not present.
- 1.6 Presentation of a proclamation recognizing September 17 - 23, 2006, as "Constitution Week" and marking the Two Hundred and Nineteenth Anniversary of the drafting of the Constitution of the United States. (Mayor/Reed/Cortese)
(Rules Committee referral 9/13/06)
Mayor Gonzales and Council Members Reed and Cortese recognized the week of September 17-23, 2006 as "Constitution Week."

2. CONSENT CALENDAR

2.1 Approval of Minutes.

Recommendation: Approval of minutes:

- (a) Regular Minutes of December 6, 2005

Approved.

- (b) Regular Minutes of December 13, 2005

Deferred to 9/26/06.

2.2 Final adoption of ordinances.

There were none.

2.3 Approval of an agreement to provide Sales and Use Tax compliance services.

Recommendation:

- (a) Approval of the agreement with MBIA Muni-Services Company (MBIA) to provide Sales and Use Tax compliance services and related revenue enhancement services for a one-year term, retroactive to July 1, 2006 through June 30, 2007 for an amount not to exceed \$545,000.

Approved.

- (b) Adoption of a resolution authorizing the Director of Finance to extend the contract for three additional one-year option periods for a maximum annual compensation not to exceed \$545,000 subject to the appropriation of funds by the City Council, for a total agreement amount not to exceed \$2,180,000.

CEQA: Not a Project. (Finance)

Resolution No. 73410 adopted.

2.4 Approval of various actions related to the proposed Monterey Highway Soccer Complex.

Recommendation:

- (a) Adoption of a resolution authorizing the City Manager to negotiate and execute the second amendment to the agreement between the City and Environmental Science Associates, Inc. for environmental services to complete an environmental impact report related to the proposed Monterey Highway Soccer Complex Project increasing the Scope of Services and Compensation by \$68,090 and extending the ending term of the agreement from December 31, 2006 to December 31, 2007.

Resolution No. 73411 adopted.

(Item continued on the next page)

2. CONSENT CALENDAR

2.4 Approval of various actions related to the proposed Monterey Highway Soccer Complex (Cont'd.)

- (b) Adoption of the following Appropriation Ordinance amendments in the Park Citywide Construction Tax and Property Conveyance Tax Fund (Fund 391):
 - (1) Establish an appropriation to the Parks, Recreation and Neighborhood Services Department for the Monterey Highway Soccer Complex Project for \$120,000; and
 - (2) Decrease the Ending Fund Balance by \$120,000.

CEQA: Not a Project. (Parks, Recreation and Neighborhood Services/City Manager's Office)

Ordinance No. 27861 adopted.

2.5 Approval of report on bids and appropriate action for the Fair Swim Center Locker Room Improvement Project.

Recommendation:

- (a) Report on bids and award of contract for the Fair Swim Center Locker Room Improvement Project to the low bidder, BobNay, Inc., dba Ram Building Company, in the amount of \$116,881, and approval of a contingency in the amount of \$17,532.

Approved.

- (b) Adoption of the following Appropriation Ordinance Amendments in the Council District 7 Construction and Conveyance Tax Fund:
 - (1) Establish the Fair Swim Center Locker Room Improvement Project to the Parks, Recreation and Neighborhood Services Department in the amount of \$175,000; and
 - (2) Decrease the Reserve: Fair Swim Center by \$175,000.

CEQA: Not a Project. Council District 7. SNI: Tully/Senter. (Public Works Parks, Recreation and Neighborhood Services)

Ordinance No. 27862 adopted.

2.6 Approval to amend an agreement for the restoration of a portion of the Simonds Elementary School site.

Recommendation: Approval of first amendment to agreement for dedication of easements between the San José Unified School District and the City of San José in order to authorize payment of \$39,300 to the District for restoration of a portion of the Simonds Elementary School site used by the City to complete the adjacent Almaden Community Center Project and relieving the City of such restoration obligation, and adoption of a resolution authorizing the Director of Public Works to execute documents necessary to complete the transaction. CEQA: Exempt, File No. PP03-11-367. Council District 10. (Public Works)

Agreement approved.

Resolution No. 73412 adopted.

2. CONSENT CALENDAR

2.7 Approval to amend an agreement for the Roosevelt Community Center Multi-Service Project.

Recommendation: Approval of the first amendment to the agreement with Group 4 Architects, Research and Planning, Inc. for architectural consultant services for the Roosevelt Community Center Multi-Service Project, increasing the amount of compensation by \$842,785, for a total agreement amount not to exceed \$2,641,672. CEQA: Mitigated Negative Declaration PP03-12-397. Council District 3. SNI: Five Wounds/Brookwood. (Public Works)

Approved.

2.8 Approval to amend an agreement for the operation and maintenance of the new Dr. Martin Luther King Jr. Library.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute the second amendment to the agreement between the City and the Trustees of the California State University System on behalf of San José State University for the Operation and Maintenance of the new Dr. Martin Luther King, Jr. Library in order to update the allocation method for disbursing funds for payment of maintenance and utilities expenses. CEQA: Not a Project. Council District 3. (Library)

Renumbered from 5.2.

Resolution No. 73413 adopted, with Staff directed to return to Council with the agreement and a strategy to reduce energy costs.

3. STRATEGIC SUPPORT SERVICES

3.1 Report of the Study Session Mayor Gonzales, Chair No Report.

3.2 Report of the Rules Committee – September 6, 2006 Vice Mayor Chavez, Chair

(a) Redevelopment Agency items reported out at Redevelopment Agency meeting

(b) City Council

(1) Review September 19, 2006 Draft City Council Agenda

(a) Adds to the September 19, 2006 Draft City Council Agenda

The Committee recommended approval to the September 19, 2006 Draft City Council Agenda with four additions.

(2) Add New Items to September 12, 2006 Council Agenda

(a) Mayor and Councilmember Requests

(b) Council Appointee Requests

The Committee recommended approval to the September 12, 2006 City Council Agenda with one addition.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – September 6, 2006 (Cont'd.)

Vice Mayor Chavez, Chair

(b) City Council (Cont'd.)

(3) List of Reports Outstanding

The Committee noted and filed the City Manager's Report.

(c) Legislative Update

(1) State

No Report.

(2) Federal

(a) HR5443, HR5576 and S3508 Legislation related to Moving to Work and reform of the Section 8 Program

(1) Oppose HR5443

(2) Support HR5576

(3) Support S3508

The Committee approved the recommendations.

(d) Meeting Schedules

(1) Approval of Special Meeting to Discuss Heat Wave and Power Outage Plans on Tuesday, October 10, 2006, 6:00 to 9:00 p.m. in Council Chambers

The Committee approved the Special Meeting.

(2) Approval of Sunshine Ordinance Study Session on Thursday, November 30, 2006, 9:00 a.m. to 12:00 noon in Council Chambers

The Committee approved the Study Session.

(3) Approval of location change for Joint Study Session on Water Issues to the Water District Headquarters, 5700 Almaden Expressway.

The Committee approved the location change.

(e) The Public Record

The Committee noted and filed the Public Record.

(f) Appointments to Boards, Commissions and Committees

(1) Approval of Lisa Jensen, Rudy Nasol and Steven Sosnowski to temporary appointments to the CDBG Steering Committee to a term ending September 30, 2006

The Committee approved the temporary appointments.

3. STRATEGIC SUPPORT SERVICES

3.2 Report of the Rules Committee – September 6, 2006 (Cont'd.)

Vice Mayor Chavez, Chair

- (f) Appointments to Boards, Commissions and Committees (Cont'd.)
 - (2) Approval to reappoint Karen E. Davis to the Human Rights Commission to a term ending December 31, 2009
 - (3) Approval to reappoint Raj Bhanot to the Human Rights Commission to a term ending December 31, 2009
 - (4) Approval to reappoint Robert Sippel to the Human Rights Commission for six months to a term ending June 30, 2007
The Committee approved the reappointments.
- (g) Rules Committee Reviews, Recommendations and Approvals
 - (1) Revisit discussion on the process for placing commendations on the Council Agenda
Chair Chavez reported that there has been a significant reduction in the number of commendations placed on the Council Agenda.
 - (2) Proposed Lobbying Ordinance Amendments
City Clerk Lee Price responded to questions from Chair Chavez about late filings and late fees. She suggested that the fees for filing late reports are too low. The Committee accepted the recommendation and agreed to forward it to the City Council. The Committee referred the late fees for late reports to the Elections Committee.
See Item 3.9 for Council action taken.
- (h) Review of Significant Public Records Act Requests
There were none.
- (i) Review of Council Policy Updates per Sunshine Reforms
There were none.
- (j) Open Forum
There were none.
- (k) Adjournment
The meeting was adjourned at 2:22 p.m.

The Rules Committee Report and the Actions of September 6, 2006, were accepted.

3.3 Report of the Making Government Work Better Committee

Council Member Reed, Chair

No Report.

3. STRATEGIC SUPPORT SERVICES

3.4 Approval to amend an ordinance related to delinquent payments of various taxes and fees.

Recommendation: Approval of an ordinance amending Section 4.68.140 of Chapter 4.68, Section 4.72.100 of Chapter 4.72, Section 4.74.100 of Chapter 4.74, and Section 4.78.260 of Chapter 4.78 of Title 4, and amending Section 9.10.960 of Chapter 9.10 of Title 9, all of the San José Municipal Code, to authorize the Director of Finance to waive the first penalty of ten percent (10%), on delinquent payments of Utility Users Taxes, Transient Occupancy Taxes, Disposal Facility Taxes, and Solid Waste Enforcement Fees, for penalties imposed on or after January 1, 2006. CEQA: Not a Project. (Finance)

Ordinance No. 27863 passed for publication.

3.5 Approval of actions related to Council Appointee Salaries.

Recommendation:

- (a) Adoption of a resolution approving an amendment of the City of San José Pay Plan to provide cost of living salary increases of 3.75% effective July 2, 2006 for Council Appointees.

Resolution No. 73414 adopted.

- (b) Approval to defer presentation of a follow-up report on Council Appointee salaries until February 2007.

CEQA: Not a Project. (Human Resources)

Approved.

3.6 Executive Search Plan and Timeline for the Recruitment of a New City Manager.

Recommendation:

- (a) Accept this Executive Search Plan and Timeline for the recruitment of a new City Manager.
- (b) Direct Human Resources to serve as the staff lead in the implementation of the plan, beginning in October 2006, and;
- (c) Direct the Administration to recommend a funding source for the anticipated expense associated with this recruitment, to be appropriated in the Human Resources Budget through the Fiscal Year 2005-2006 Annual Report Process.

(Mayor)

(Rules Committee referral 9/6/06)

Approved.

3. STRATEGIC SUPPORT SERVICES

3.7 Implement an Emergency Preparedness Plan to protect the people of San José.

Recommendation: Direct Staff to implement an Emergency Preparedness Plan to protect the people of San José from future disasters. Implementation shall be timed to recoup as much funding as possible from the Urban Area Security Initiative (UASI) Grant within the next 90 days. Create a Funding Plan, including General Fund and other grant sources, for those items that do not meet UASI's criteria. (Chavez)

(Rules Committee referral 9/13/06)

Council accepted the memorandum from Vice Mayor Chavez, dated September 13, 2006, and provided direction to staff, as follows:

- (1) Evaluate and compare with the current work plan the ideas contained in the Vice Mayor's memorandum and determine which ones may be appropriate to integrate;**
- (2) Return in 60 days with an integrated work plan that also addresses safety concerns at local schools and examines the capacity of the City of San José and its' partners to provide services during a major catastrophe.**
- (3) Provide a list of the number of people trained by San José Prepared, compiled by Council District, and re-circulate copies of the original grant, including deadlines, and the April 2006 Report from the then-Acting Director of the Office of Emergency Services, Mike Micelli.**

3.8 Develop a work plan for greater financial overview.

Recommendation: In order to protect San José's future financial security, direct Staff to develop a work plan for greater financial overview of all financial data including, but not limited to, audits, the Monthly Financial Report and the Comprehensive Annual Financial Report (CAFR). Oversight will be assigned to the Making Government Work Better Committee. (Chavez)

(Rules Committee referral 9/13/06)

Approved.

3.9 Direction to City Attorney to draft amendments to Lobbying Ordinance.

Recommendation: Approval of the Election Commission's recommended changes to the Lobbying Ordinance and direction to the City Attorney to draft an ordinance implementing the changes.

(Rules Committee referral 9/6/06)

Approved, with thresholds for reporting set at \$500 (for contributions to a Council candidate) and \$1,000 (for contributions to a Mayoral candidate).

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.1 Report of the Building Strong Neighborhoods Committee

Council Member Chirco, Chair

No Report.

4.2 Report of the Driving a Strong Economy Committee

Council Member Williams, Chair

No Report.

4.3 Public Hearing on the reorganization of territory designated as Story No. 57.

Recommendation: Public Hearing on the reorganization of territory designated as Story No. 57 which involves the annexation to the City of San José of 3.18 gross acres of land located at the south side of Fleming Avenue, approximately 1,032 feet southeast of Alum Rock Avenue, and the detachment of the same from the appropriate special districts including Central Fire Protection, Area No. 01 (Library Services) County Service and County Sanitation District 2-3. CEQA: Mitigated Negative Declaration. Council District 5. (Planning, Building and Code Enforcement).

Heard in the evening.

Resolution No. 73419 adopted.

4.4 Conduct a Public Hearing and conditionally vacate a portion of Murphy and Ringwood Avenues.

Recommendation: Conduct a public hearing and adoption of a resolution to conditionally vacate a portion of a public service easement created by Tract 8454, located on the northeast corner of Murphy and Ringwood Avenues. CEQA: Mitigated Negative Declaration, PDC90-060. Council District 4. (Public Works)

Resolution No. 73415 adopted.

4.5 Acceptance of the Evergreen-East Hills Vision Strategy Status Report and Revised Work Plan.

Recommendation: Acceptance of the Evergreen-East Hills Vision Strategy Status Report and Revised Work Plan. CEQA: Not a Project. Council Districts 5, 7 and 8. SNI: West Evergreen, Kona and East/Valley 680. (Planning, Building and Code Enforcement).

Report Accepted.

4.6 Approval of an ordinance related to the Downtown Sign Zone.

Recommendation: Approval of an ordinance amending Part 1 of Chapter 23.02 and Part 2 of Chapter 23.04, all of Title 23 of the San José Municipal Code, to allow inflatable signs on certain large parcels located in the Downtown Sign Zone. CEQA: Resolution No. 68839. Council Districts 3 and 6. SNI: Market/Almaden and University. (Planning, Building and Code Enforcement)

Ordinance No. 27864 passed for publication.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.7 Approval to establish the Downtown Design Review Process Citywide for High-Rise Development.

Recommendation: Adoption of a resolution establishing the High-Rise Design Review Process citywide for high-rise development 100 feet or greater in height. CEQA: Not a Project. (Planning, Building and Code Enforcement)

Resolution No. 73416 adopted.

Noes: Yeager.

4.8 Approval to initiate actions and set a public hearing for the annexation of Story No. 59.

Recommendation: Approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting October 24, 2006 at 7:00 p.m. (recommended for continuance to 11/14/06) for a public hearing on the reorganization of territory designated as Story No. 59 which involves the annexation the City of San José of approximately 3.7-Acre County Pocket containing four (4) parcels on the Southeasterly corner of Story Road and Machado Lane and the implementation of the annexation would result in the detachment of properties within the annexation area from Central Fire Protection, and Area No. 01 (Library Services) County Service (Numerous Owners). CEQA: Resolution No. 65459. Council District 5. (Planning, Building and Code Enforcement)

Continued to 10/3/06.

4.9 Approval to initiate actions and set a public hearing for the annexation of Sunol No. 74.

Recommendation: Approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting October 24, 2006 at 7:00 p.m. (recommended for continuance to 11/14/06) for a public hearing on the reorganization of territory designated as Sunol No. 74 which involves the annexation the City of San José of approximately 1.7-Acre County Pocket consisting of 11 parcels on the south side of Paula Street, west of Race Street. Implementation of the annexation would result in the detachment of properties within the annexation area from Sunol Sanitary, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)

Continued to 10/3/06.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.10 Approval to initiate actions and set a public hearing for the annexation of Sunol No. 75.

Recommendation: Approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting October 24, 2006 at 7:00 p.m. (recommended for continuance to 11/14/06) for a public hearing on the reorganization of territory designated as Sunol No. 75 which involves the annexation the City of San José of approximately 3.6-Acre County Pocket consisting of 13 parcels on the north side of Paula Street, east of Northrup Street, and the west side of Lincoln Avenue south of Interstate 280 and north of Paula Street. Implementation of the annexation would result in the detachment of properties within the annexation area from Sunol Sanitary, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)

Continued to 10/3/06.

4.11 Approval to initiate actions and set a public hearing for the annexation of Sunol No. 76.

Recommendation: Approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting October 24, 2006 at 7:00 p.m. (recommended for continuance to 11/14/06) for a public hearing on the reorganization of territory designated as Sunol No. 76 which involves the annexation the City of San José of approximately 1.8-Acre County Pocket consisting of 13 parcels on the north side of Paula Street, west of Northrup Street. Implementation of the annexation would result in the detachment of properties within the annexation area from Sunol Sanitary, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 6. (Planning, Building and Code Enforcement)

Continued to 10/3/06.

4.12 Approval to initiate actions and set a public hearing for the annexation of Evergreen No. 196.

Recommendation: Approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting October 24, 2006 at 7:00 p.m. for a public hearing on the reorganization of territory designated as Evergreen No. 196 which involves the annexation the City of San José of approximately 1.1- gross Acre County Pocket located on the west side of Kettmann Road, approximately 75 feet southerly of dashwood Avenue. Implementation of the annexation would result in the detachment of properties within the annexation area from Central Fire Protection, and Area No. 01 (Library Services) County Service. (Tumlinson, Otila and Jill Owners). CEQA: Resolution No. 65459. Council District 8. (Planning, Building and Code Enforcement)

Dropped. To be renoticed.

4. COMMUNITY & ECONOMIC DEVELOPMENT

4.13 Approval to initiate actions and set a public hearing for the annexation of Cambrian No. 35.

Recommendation: Approval to conduct a public hearing and adoption of a resolution initiating proceedings, and setting October 24, 2006 at 7:00 p.m. (recommended for continuance to 11/14/06) for a public hearing on the reorganization of territory designated as Cambrian No. 35 which involves the annexation the City of San José of approximately 2.55-Acre County Pocket consisting of 9 parcels on the southwesterly corner of Bascom Avenue and Curtner Avenue. Implementation of the annexation would result in the detachment of properties within the annexation area from West valley Sanitation, County Lighting County Service, Central Fire Protection, and Area No. 01 (Library Services) County Service. CEQA: Resolution No. 65459. Council District 9. (Planning, Building and Code Enforcement)

Continued to 10/3/06.

5. NEIGHBORHOOD SERVICES

5.1 Report of the All Children Achieve Committee Council Member Yeager, Chair No Report.

5.2 Approval to amend an agreement for the operation and maintenance of the new Dr. Martin Luther King Jr. Library.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute the second amendment to the agreement between the City and the Trustees of the California State University System on behalf of San José State University for the Operation and Maintenance of the new Dr. Martin Luther King, Jr. Library in order to update the allocation method for disbursing funds for payment of maintenance and utilities expenses. CEQA: Not a Project. Council District 3. (Library)

Renumbered to Item 2.8.

5. NEIGHBORHOOD SERVICES

5.3 Approval of actions related to the Columbus Park and the Guadalupe Gardens Master Plans.

Recommendation:

- (a) Approval of an amendment to the Columbus Park Master Plan to include a 21-court horseshoe pitching facility.
- (b) Direction to staff to work with Friends of Guadalupe River Park and Gardens and other stakeholders to develop design guidelines and location of a dog park at Guadalupe Gardens.

CEQA: Exempt, PP05-227. (Parks, Recreation and Neighborhood Services)

Approved.

The memorandum from Vice Mayor Chavez and Council Member Yeager, dated September 18, 2006, was approved, as amended on Item (2): Direct Staff to contract with the Friends of Guadalupe River Park and Gardens to “*assist in managing*” the development of design guidelines for the Guadalupe Gardens Master Plan, incorporating planning for a dog park into the process.

6. TRANSPORTATION & AVIATION SERVICES

6.1 Report of the Building Better Transportation Committee Council Member Campos, Chair No Report.

6.2 Approval of report on bids and actions related to the Airport North Concourse General Building, Package 4.

Recommendation: Report on bids and take appropriate action based on the evaluation of bids for the Norman Y. Mineta San José International Airport North Concourse - General Building (Package 4). CEQA: Resolution Nos. 67380 and 71451, PP06-131. (Public Works)

Deferred to 10/17/06.

6. TRANSPORTATION & AVIATION SERVICES

6.3 Approval to amend an agreement related to the Almaden/Woz Way Parking Lot.

Recommendation: Approval of the seventh amendment to a lease agreement between the City of San José (City) and Boston Properties (dba BP Almaden Associates, LLP) to include the following:

- (a) A lease extension effective from October 1, 2006 to December 31, 2007, in the amount of \$498,000 (\$33,200 per month) for the property commonly referred to as Almaden/Woz Way parking lot, located at 282 Almaden Boulevard.
- (b) Allow the placement of public grandstands for the San José Grand Prix event scheduled for the weekend of July 27-29, 2007.
- (c) Allow the City to use a portion of the parking lot for the Northern California Motorcycle Show scheduled in December 2007.

CEQA: Resolution No. 72767. Not a Project. Council District 3. (Transportation)

Deferred to 9/26/06, per Orders of the Day.

7. ENVIRONMENTAL & UTILITY SERVICES

8. PUBLIC SAFETY SERVICES

8.1 Approval to reject all bids for Fire Station 17 Relocation Project.

Recommendation: Approval to reject all bids for Fire Station 17 Relocation Project and direction to staff to evaluate the best strategy for re-bid of this project. CEQA: Exempt, File No. PP05-275. Council District 9. (Public Works/Fire)
(Deferred from 8/29/06 – Item 8.1)

Approved.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

The Redevelopment Agency Board convened to consider Items 9.1, 9.2, 9.3 and 9.4 in a Joint Session.

9.1 Acceptance of the report on mixed-use at the Japantown Corporation Yard.

Recommendation: Acceptance by the City Council and Redevelopment Agency Board of a report on recommendations for community amenities related to a planned mixed-use residential development of City-owned properties located at the Japantown Corporation Yard and parking sites, generally bounded by 6th and 7th Streets and Jackson and Taylor Streets as follows:

- (a) The Corporation Yard should be a catalyst to revitalize Japantown with retail, urban plaza, performance space, and a strong historical connection.
- (b) Secure a Japantown home for Taiko.
- (c) Establish a senior wellness and youth center at the Boys and Girls Club site.
- (d) Develop and implement a comprehensive Japantown Retail Strategy.
- (e) Develop and implement a Parking Strategy.
- (f) Historical and Cultural Preservation.
- (g) Revisit the Jackson Taylor Strategy.

CEQA: Not a Project. Council District 3. (City Manager's Office/Redevelopment Agency)

Heard in the evening.

Report Accepted, with Staff directed to provide via information memorandums an update on the on-going discussions and updates on the Brandenburg site.

9.2 Approval to purchase property and casualty insurance policies.

Recommendation: Adoption of a resolution authorizing the Director of Finance to purchase insurance policies for the period October 1, 2006 to October 1, 2007 at a cost not to exceed \$2,600,000. CEQA: Not a Project. (Finance)

Resolution No. 73417 adopted.

9.3 Approval of the San José Repertory Theatre Loan Options.

Recommendation:

- (a) Discussion and possible action on loan options for the San José Repertory Theatre (REP) in the amount of \$1 million.
- (b) Defer action on the options until the City Auditor completes a full financial analysis of the San José Repertory Theatre.

CEQA: Not a Project. (City Manager's Office)

(Referred from 8/29/06 – Items 2.6 and 9.1 and deferred from 9/12/06 – Item 9.1)

The REP was asked to complete fully their response to the City Auditor's Findings and, further, to define the cost implications for each option. The City Manager and City Auditor were requested to return to Council on 10/3/06 with a joint memorandum outlining each of the Auditor's findings along with the REP's response to each and an explanation of how each recommendation will affect the REP, including an answer to the question about bankruptcy.

9. JOINT COUNCIL/REDEVELOPMENT AGENCY

9.4 Approval of fiscal actions related to the Mexican Heritage Plaza.

Recommendation: Adoption of a resolution authorizing the City Manager to negotiate and execute the:

- (a) Third amendment to the operation and maintenance agreement entered into by the City and Mexican Heritage Corporation (MHC) to advance the remaining operation and maintenance payments due to MHC for October through May of FY 2006 - 2007, totaling \$275,855.28.
- (b) Third amendment to the loan agreement entered into by the City and Mexican Heritage Corporation to allow the City to deduct MHC's monthly loan repayment amounts from the advanced Operation and Maintenance payments for October through May of FY 2006 - 2007, and to deduct from MHC's June loan repayment amount, City's payment for use of the Neighborhood Development Center (NDC) located at the Mexican Heritage Plaza, at the rate of \$1,440/month, to make corresponding amendments to the Promissory Note, and to authorize the payment to MHC by City for City's use of the NDC in the event City's use exceeds MHC's June loan repayment amount.

CEQA: Not a Project. (City Manager's Office)

(Deferred from 9/12/06 – Item 9.2)

Resolution No. 73418 adopted.

The Redevelopment Agency portion of the meeting was adjourned.

- **Closed Session Report**
No Report.

- **Notice of City Engineer's Pending Decision on Final Maps**
In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's pending decision on the following Final Maps:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>	<u>Proposed Decision</u>
9826	NE corner of East Julian and North First Streets	3	Regis Homes	1 Lot/43 Units	MFA	Approve

In accordance with Sec. 19.16.140d of the San Jose Municipal Code, this is notice of the City Engineer's receipt of the following Final Maps for review:

<u>Tract</u>	<u>Location</u>	<u>Council District</u>	<u>Developer</u>	<u>Lots/Units</u>	<u>Type</u>
9856	SE corner of New Jersey and Harris Avenues	9	The Cullen Group	5 Lots	SFD

- **Open Forum**
There were none.

- **Adjournment**
The Council adjourned the afternoon session at 6:29 p.m.

10. GENERAL PLAN PUBLIC HEARINGS ON CONSENT CALENDAR

No General Plan Public Hearing at this time.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

(Heard by the City Council at 7:08 p.m.)

11.1 Public Hearings on Consent Calendar.

Recommendation:

- (a) Consideration of a Director initiated rezoning ordinance rezoning an approximate 10.89 gross acre site located on the southwesterly corner of Capitol Avenue and Gimelli Way from County of Santa Clara to RM Multiple Residence District for multiple residential purposes (Genevieve M. Merlino, Owner). Director of Planning, Building and Code Enforcement and Planning Commission recommended to approval (6-0-1). CEQA: Resolution No. 65459.
C06-044 – District 5
[Continued from 8/15/06 – Item 11.1(f)]
Ordinance No. 27865 passed for publication.
- (b) Consideration of a Director initiated rezoning ordinance rezoning an approximately 3.7 gross acres containing 4 parcels on the southeasterly corner of Story Road and Machado Lane from County of Santa Clara to R-1-5 Single Family Residence Zoning District for single family residence purposes (Numerous Owners). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C06-042- District 5
[Continued from 8/29/06 – Item 11.1(b)]
Ordinance No. 27866 passed for publication.
- (c) Consideration of a Director initiated rezoning ordinance rezoning an approximately 3.6 gross acre area consisting of 13 parcels on the north side of Paula Street, east of Northrup Street and the west side of Lincoln Avenue south of Interstate 280 and north of Paul Street from County of Santa Clara to R-M Multiple Residence Zoning District for multi family residential purposes (Numerous Owners). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C06-046 - District 6
[Continued from 8/29/06 – Item 11.1(d)]
Ordinance No. 27867 passed for publication.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar (Cont'd.)

Recommendation:

- (d) Consideration of a Director initiated rezoning ordinance rezoning an approximately 1.8 gross acre area consisting of 13 parcels on the north side of Paula Street, west of Northrup Street from County of Santa Clara to R-M Multiple Residence Zoning District for multi family residential purposes (Numerous Owners). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C06-047 - District 6
[Continued from 8/29/06 – Item 11.1(e)]
Ordinance No. 27868 passed for publication.
- (e) Consideration of a Director initiated rezoning ordinance rezoning an approximately 1.7 gross acre area consisting of 11 parcels on the south side of Paula Street, west of Race Street from County of Santa Clara to R-M Multiple Residence Zoning District for multi family residential purposes (Numerous Owners). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C06-050 - District 6
[Continued from 8/29/06 – Item 11.1(f)]
Ordinance No. 27869 passed for publication.
- (f) Consideration of a Director initiated rezoning ordinance rezoning an approximately 1.1 gross acre site located on the west side of Kettman Road, approximately 75 feet southerly of Dashwood Avenue from County of Santa Clara to R-1-8 Single Family Residence Zoning District for single family residential purposes (Otila and Jill Tumlinson, Owners). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C06-052 - District 8
[Continued from 8/29/06 – Item 11.1(i)]
Dropped. To be renoticed.
- (g) Consideration of a Director initiated rezoning ordinance rezoning an approximately 1.66 gross acre site consisting of 7 parcels on 0.89 gross acres consisting of 2 parcels located on the southwest corner of Bascom and Curtner Avenues from County of Santa Clara to R-1-8 Single Family Residence District for single family residential purposes and CP Commercial Pedestrian (Numerous Owners). CEQA: Resolution No. 65459. Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required.
C05-053 - District 9
[Continued from 8/29/06 – Item 11.1(j)]
Ordinance No. 27870 passed for publication.

11. PUBLIC HEARINGS ON CONSENT CALENDAR

11.1 Public Hearings on Consent Calendar (Cont'd.)

Recommendation:

- (h) Consideration of an ordinance rezoning the real property located at the corner of Ardis Avenue and Stevens Creek Boulevard from A(PD) Planned Development Zoning District to A(PD) Planned Development Zoning District to allow incidental auto service and detail uses in a new approximately 8,000 square foot building, in addition to the existing commercial, automobile dealership and parking uses currently permitted, on a 1.46 gross acre site (3370 Stevens Creek Blvd.) (Hooshang and Manizheh Homara, Trustee, Owner). CEQA: Exempt. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-1).

PDC06-054 - District 1

Ordinance No. 27871 passed for publication.

- (i) Consideration of a conforming rezoning ordinance rezoning the real property located at the northeast intersection of West Alma and Minnesota Avenues from A(PD) Planned Development Zoning District to CP Commercial Pedestrian Zoning District to allow commercial uses on a 0.44 gross acre site (555 West Alma Avenue) (Daylight Produce Co., LLC Bob Vlahopoulitis, Owner). Director of Planning, Building and Code Enforcement recommends approval. No Planning Commission action required. CEQA: Resolution No. 65459.

C06-086 - District 6

Ordinance No. 27872 passed for publication.

END OF CONSENT CALENDAR

11. PUBLIC HEARINGS

11.2 Rezoning the real property located at the southwest corner of Monterey Road and Goble Lane.

Recommendation: Consideration of an ordinance rezoning the real property located at the southwest corner of Monterey Road and Goble Lane rezoning from A(PD) Planned Development Zoning District which allows up to 969 single family and multi family residential units and approximately 18,000 square feet of commercial space site to A(PD) Planned Development Zoning District to modify the previously approved General Development Standards to allow (1) a reduction in setbacks along Monterey Road; (2) to allow detached units; (3) to clarify the park dedication requirement (2745 Monterey Road) (ROEM Development Corporation, Owner/Developer). CEQA: Resolution No. 72877, File No. PDC02-066.

PDC06-034 - District 7

[Continued from 8/15/06 – Item 11.6]

Continued to 10/3/06.

11.3 Administrative Hearing on the Appeal of the Planning Commission's decision to deny a Conditional Use Permit.

Recommendation: Administrative Hearing on the consideration of an appeal of the Planning Commission's decision to deny a Conditional Use Permit and deny the granting of a determination for Public Convenience or Necessity for the off-sale of alcoholic beverages at an existing retail store on a 0.43 gross acre site in the CP Commercial Pedestrian Zoning District located at the southwest corner of Winchester Boulevard and Impala Drive (1539 S. Winchester Blvd.) (Ronnie Berry, Owner). Director of Planning, Building and Code Enforcement recommends to uphold the Planning Commission's decision to deny (5-0-1). CEQA: Exempt. SNI: Winchester.

CP06-009 & ABC06-006 - District 1

[Continued from 8/15/06 – Item 11.3 and 8/29/06 – 11.2]

Dropped.

11.4 Rezoning the real property located on the south side of Balbach Street.

Recommendation: Consideration of an ordinance rezoning the real property located at/on the south side of Balbach Street approximately 150 feet easterly of Almaden Avenue from CG Commercial General Zoning District to A(PD) Planned Development Zoning District to allow up to 29 single family attached residences on a 0.69 gross acre site (180 Balbach St.) (Patrick Sargent & Greg Gray, Owners; Patrick Sargent, Developer). CEQA: Mitigated Negative Declaration. SNI: Market/Almaden. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-1).

PDC05-042 - District 3

Ordinance No. 27873 passed for publication.

11. PUBLIC HEARINGS

11.5 Rezoning the real property located on the east side of Page Street.

Recommendation: Consideration of an ordinance rezoning the real property located on the east side of Page Street, approximately 200 feet southerly of Douglas Street (426-428 Page Street) (Soltanzad Farhang and Najmi Fahry, Owner/Developer) from County of Santa Clara to A(PD) Planned Development Zoning District to allow up to 7 single family attached residences on a 0.4 gross acre site. SNI: Burbank/Del Monte. CEQA: Mitigated Negative Declaration. Director of Planning, Building and Code Enforcement and Planning Commission recommended approval (6-0-1).

PDC06-010 - District 6

Ordinance No. 27874 passed for publication.

- **Open Forum**

- (1) **Mark Trout expressed personal religious views.**
- (2) **John Nguyen presented observations about transparent government.**
- (3) **Quyen Dinh expressed concerns about the next cycle of Healthy Neighborhood Venture Funding grants.**
- (4) **Arzhang Kalbali requested assistance with completing a construction project.**
- (5) **Robert Apgar presented personal observations.**
- (6) **Geraldo Hernandez expressed objection to the annexation of his property in San José. He was referred to staff.**
- (7) **Lorraine Macier spoke about mixed land uses. She was referred to staff.**

- **Adjournment**

The Council of the City of San José adjourned at 8:25 p.m.